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January 27, 2005

ORIGINAL

Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W., TW-A325
Washington, DC 20554

RECEIVED NOTICE OF EX PARTE
COMMUNICATION

JAN 27 2005

Federal Communications Commission
Office of Secretary

Re: WC Docket No. 04-36

Dear Ms. Dortch:

On January 25, 2005, Albert Kramer and Robert Aldrich, on behalf of the American Public Communications Council ("APCC") met with Michelle Carey, Darryl Cooper, Christi Shewman, Russell Hanser, Pamela Arluk, Denise Coca, and William Dever.

We discussed the Commission's payphone dial-around compensation rules and their application to calls involving IP-enabled service providers. The attached presentation, which was distributed at the meeting, summarizes the views expressed by APCC.

Respectfully submitted,

Robert F. Aldrich

Robert F. Aldrich

Enclosure

cc: Michelle Carey
Darryl Cooper
Christi Shewman
Russell Hanser
Pamela Arluk
Denise Coca
William Dever

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Legal Innovators

Payphone Dial-around Compensation and IP-enabled Services

American Public Communications Council
January 25, 2005

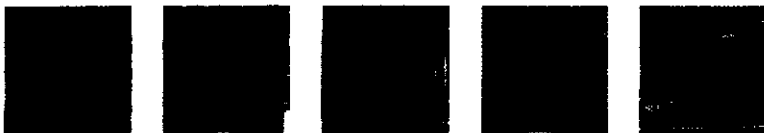
Dial-around Compensation Rules

- In Section 276 of the Act, Congress required the FCC to “establish a per call compensation plan to ensure that all payphone service providers [PSPs] are fairly compensated for each and every completed intrastate and interstate call.” 47 U.S.C. § 276(b)(1)(A)



Dial-around Compensation Rules

- Congressional intervention was necessary because Congress effectively had forbade PSPs from blocking “dial-around calls” or requiring advance deposit of coins for dial-around calls. *See* 47 U.S.C. § 226(c)(1)(B)&(C),(e)(2)
- “Dial-around calls” are subscriber 800 (e.g. 1-800-FLOWERS) and access code calls (e.g. 1-800-CALL-ATT or 1-800-COLLECT)



Dial-around Compensation Rules

- The Commission found the DAC obligation should be borne by the primary economic beneficiary of the call—the entity that receives payment from the end user (i.e., either the calling or called party)



Dial-around Compensation Rules

- The Commission's rules impose the DAC obligation on the *Completing Carrier*
 - A "*Completing Carrier* that completes a coinless access code or subscriber toll-free payphone call from a switch that the *Completing Carrier* either owns or leases shall compensate the payphone service provider" 64 C.F.R. § 64.1300(b)
 - In order to ensure accurate payments, each *Completing Carrier* must establish a call tracking system to identify calls from payphones. 64 C.F.R. § 64.1310(a)(1)



Dial-around Compensation Rules

- The *Completing Carrier* is a “long distance carrier or switch-based long distance reseller that completes a coinless access code or subscriber toll-free payphone call” 64 C.F.R. § 64.1300(a)
- By contrast, *Intermediate Carriers* are not obligated to pay DAC
 - An *Intermediate Carrier* “is a facilities-based long distance carrier that switches payphone calls to other facilities-based long distance carriers.”



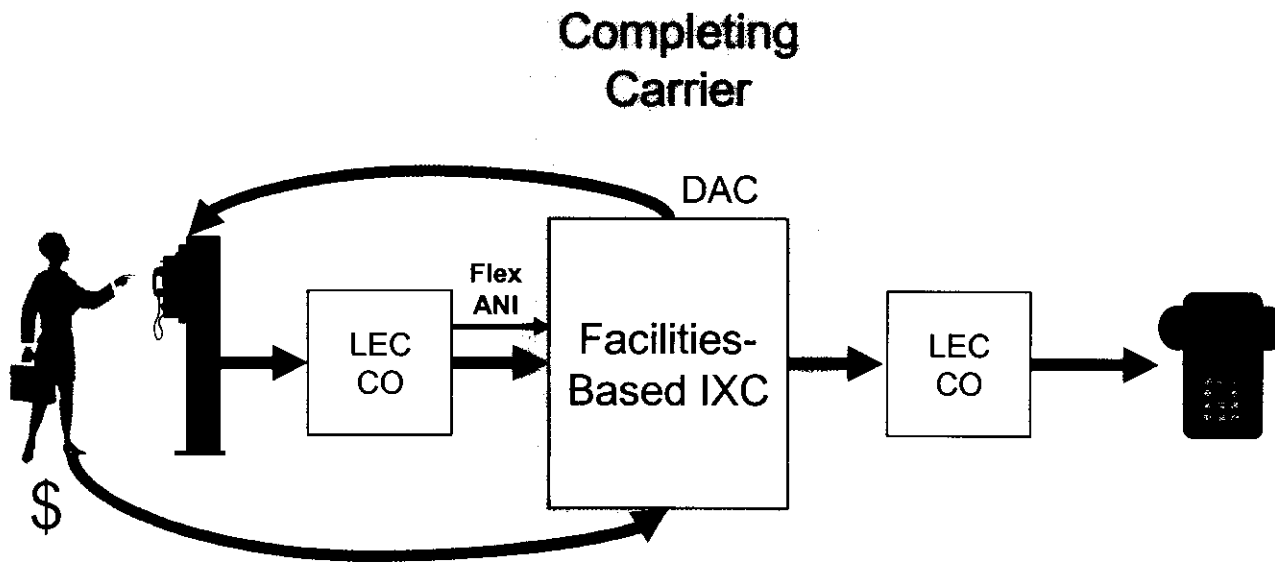
Traditional DAC Calls v. IP-enabled Provider Calls

- The next several slides compare diagrams of traditional DAC calls to DAC calls including IP-enabled providers
- For each of the traditional DAC calls, the diagram shows how the existing DAC rules apply to determine which carrier in the call path bears the DAC obligation
- For each traditional DAC call scenario, there are multiple variants involving one or more IP-enabled providers

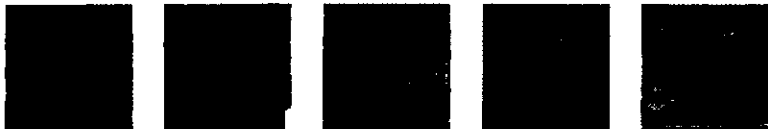


Conventional DAC Call: Calling Card or Prepaid Card Over Facilities-Based IXC

This is the most straight-forward conventional DAC scenario. There is only a single F-IXC in the call path, and that F-IXC is the Completing Carrier.

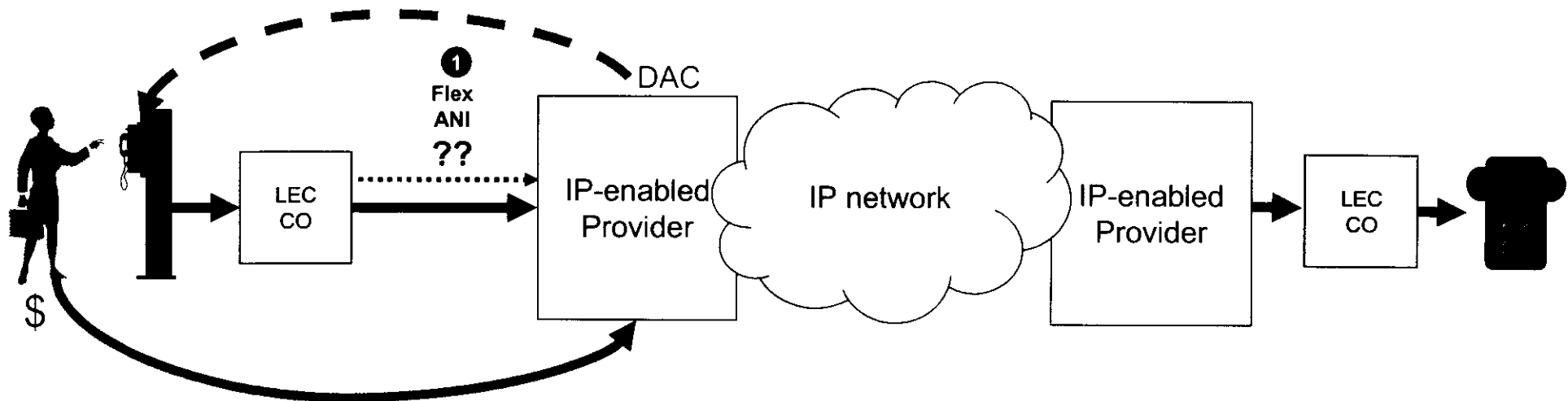


- Money flow
- Call flow
- Information flow



IP-Enabled DAC Call: Calling Card or Prepaid Card Over IP-enabled Provider to PSTN

Here, the IP-enabled Provider takes the place of the “Completing Carrier.” Nothing else changes. The caller is IP-enabled Provider’s end user. One example of this scenario is AT&T’s “IP-in-the-middle” long haul.



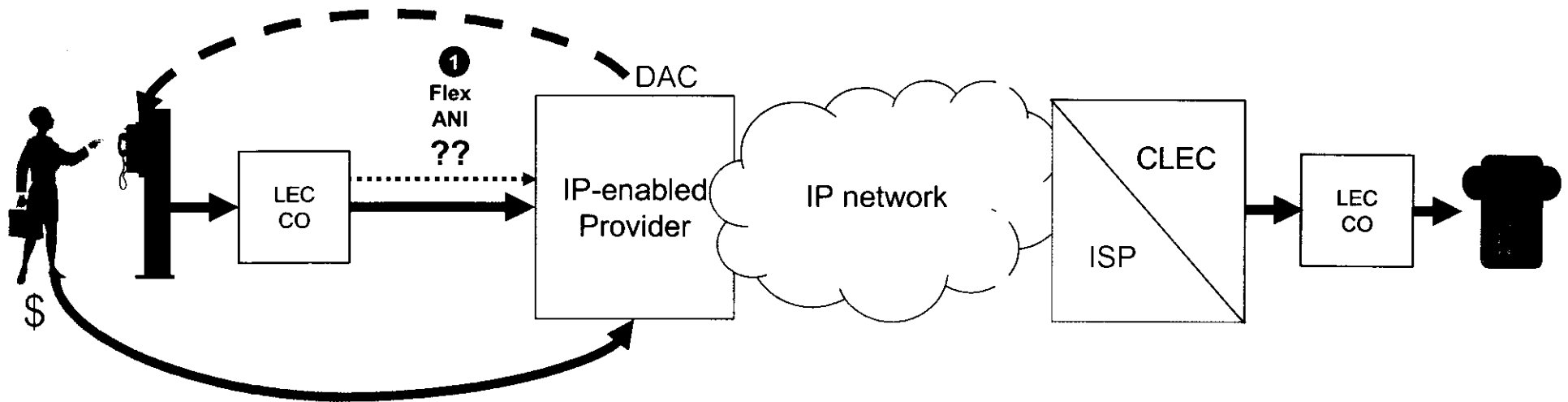
① LEC Sends Flex ANI. Unclear if IP-enabled Provider receives Flex ANI.

- Money flow
- Call flow
- Information flow



IP-Enabled DAC Call: Calling Card or Prepaid Card Over IP-enabled Provider to PSTN, Via Terminating ISP/CLEC

Again, in this scenario the IP-enabled Provider takes the place of the “Completing Carrier;” as before the caller is IP-enabled Provider’s end user. The only difference from the previous slide is that an ISP/CLEC hands the call to the terminating LEC, which should not affect PSPs’ right to DAC.



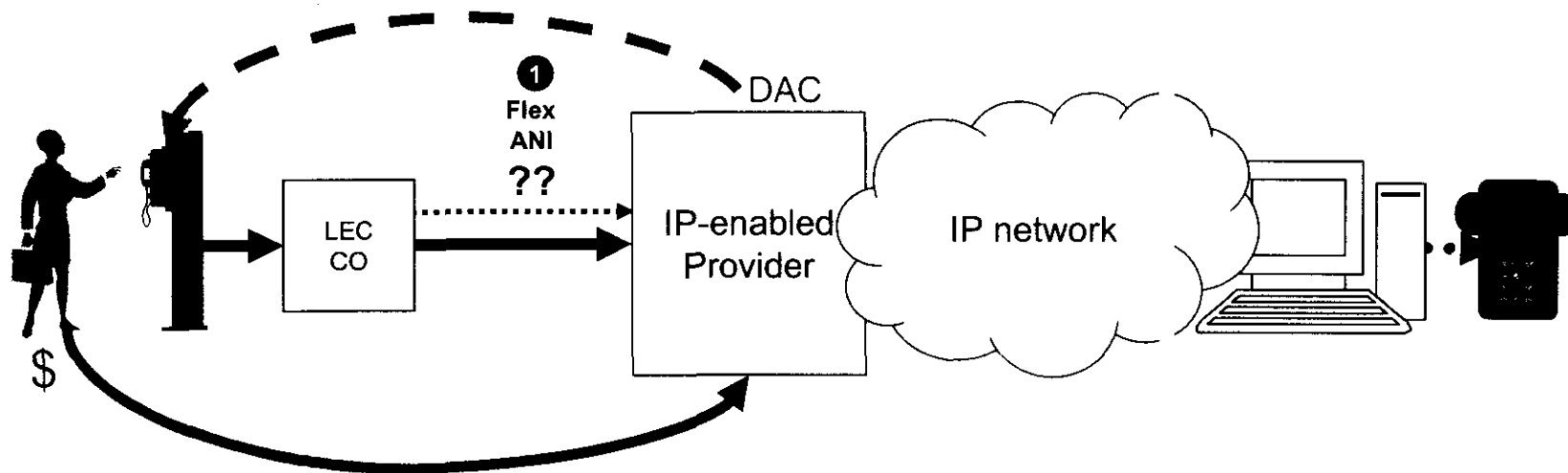
1 LEC Sends Flex ANI. Unclear if IP-enabled Provider receives Flex ANI.

- Money flow
- Call flow
- Information flow



IP-Enabled DAC Call: Calling Card or Prepaid Card Over IP-enabled Provider to Computer or IP Phone

Here again, the IP-enabled Provider takes the place of the “Completing Carrier.” The only difference between this scenario and the previous slide is that here the call terminates in IP rather than on the PSTN. The non-PSTN termination should not affect PSPs’ right to DAC.



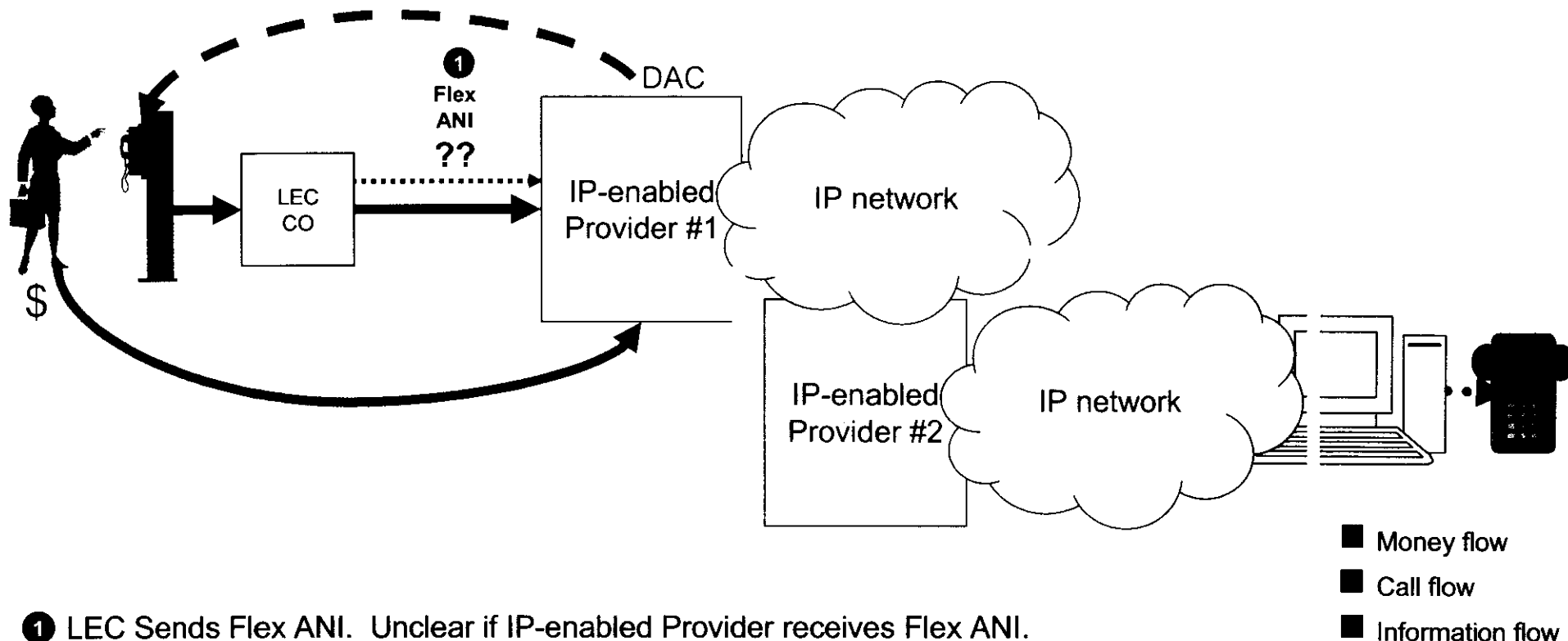
① LEC Sends Flex ANI. Unclear if IP-enabled Provider receives Flex ANI.

- Money flow
- Call flow
- Information flow



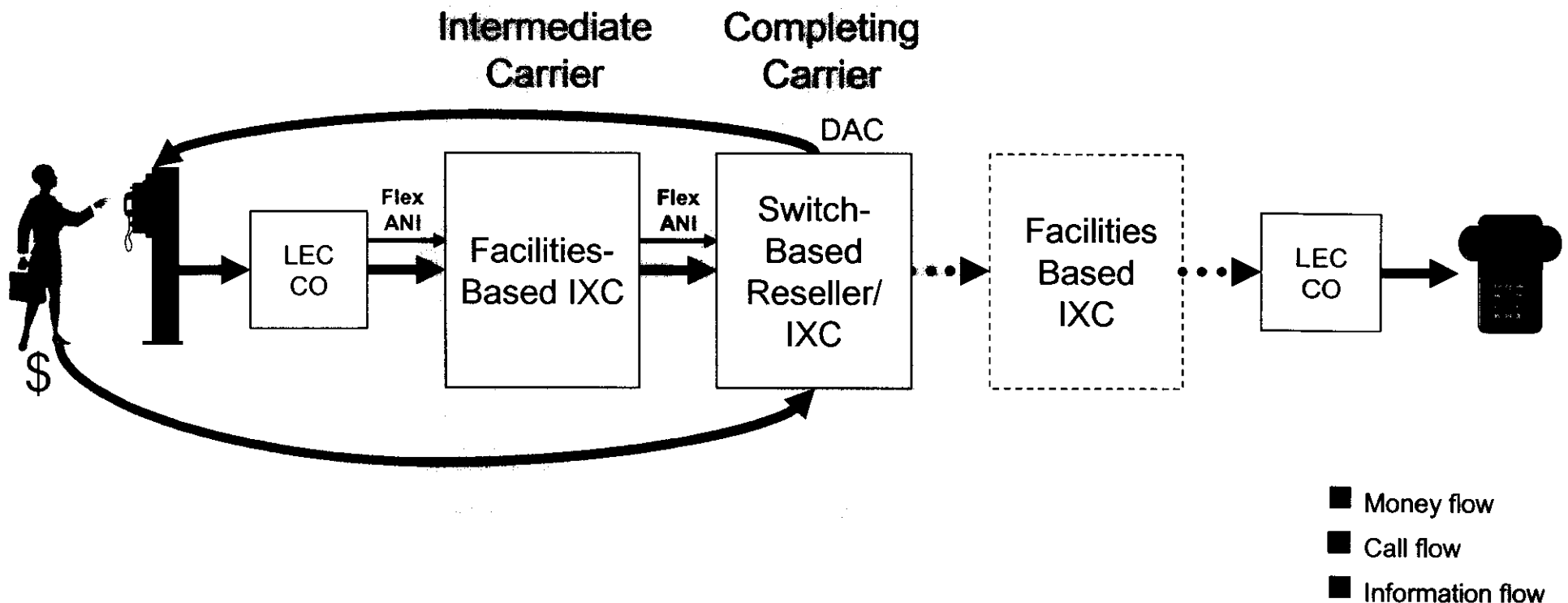
IP-Enabled DAC Call: Calling Card or Prepaid Card Over IP-enabled Provider to Second IP-enabled Provider's End User

In this scenario, the caller is using IP-enabled Provider #1's calling card to call an end user of IP-enabled Provider #2 (e.g., Vonage). IP-enabled Provider #1 takes the place of the "Completing Carrier." The presence of IP-enabled Provider #2 in the call path should not affect PSPs' right to DAC.



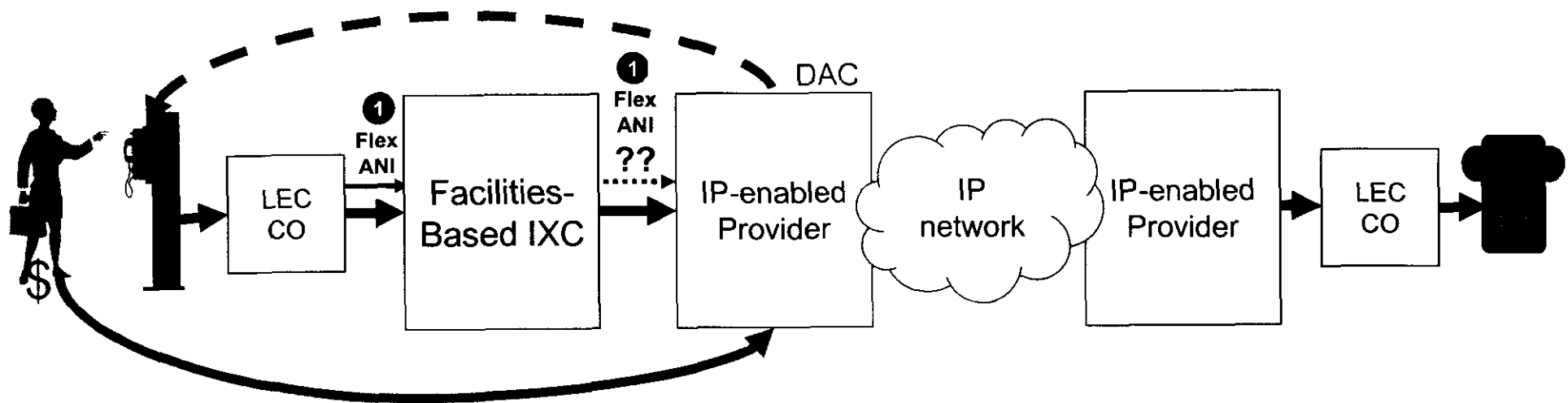
Conventional DAC Call: Calling Card or Prepaid Card Over Switch-Based Reseller/IXC

In this variation on the first conventional DAC scenario, a SBR is added to the call path in addition to the F-IXC, and is the "Completing Carrier."



IP-Enabled DAC Call: Calling Card or Prepaid Card Over IP-enabled Provider to PSTN

Here, the IP-enabled Provider is inserted in the call path in the place of the SBR "Completing Carrier." The caller is the IP-enabled Provider's end user. The F-IXC plays the same role as it does in the conventional SBR DAC scenario shown on the previous slide.



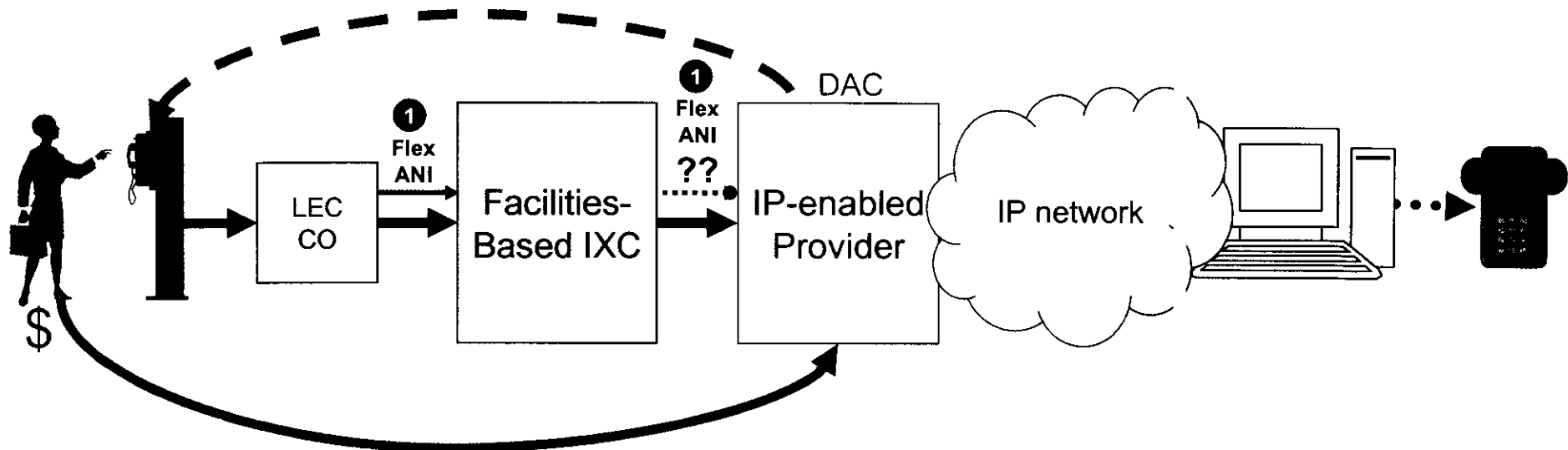
① F-IXC receives and sends Flex ANI; IP-enabled Provider may not be able to receive.

- Money flow
- Call flow
- Information flow



IP-Enabled DAC Call: Calling Card or Prepaid Card Over IP-enabled Provider to Computer or IP Phone

As in the previous slide, the IP-enabled Provider is inserted in the call path in the place of the “Completing Carrier,” and the caller is the IP-enabled Provider’s end user. The only difference is that here the call terminates in IP instead of on the PSTN.



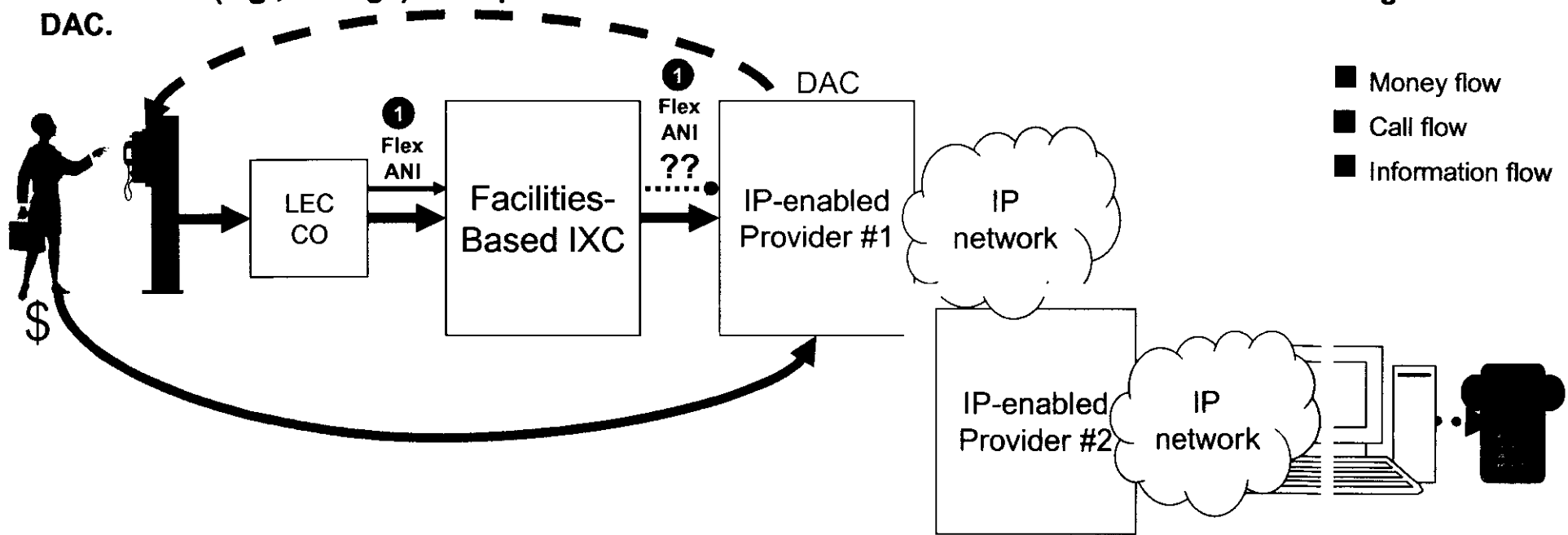
① F-IXC receives and sends Flex ANI; IP-enabled Provider may or may not be able to receive.

- Money flow
- Call flow
- Information flow



IP-Enabled DAC Call: Calling Card or Prepaid Card Over IP-enabled Provider to Second IP-enabled Provider's End User

In this scenario, IP-enabled Provider #1 is inserted in the call path in the place of the "Completing Carrier." The caller is using IP-enabled Provider #1's calling card to call an end user of IP-enabled Provider #2 (e.g., Vonage). The presence of IP-enabled Provider #2 should not affect PSPs' right to DAC.

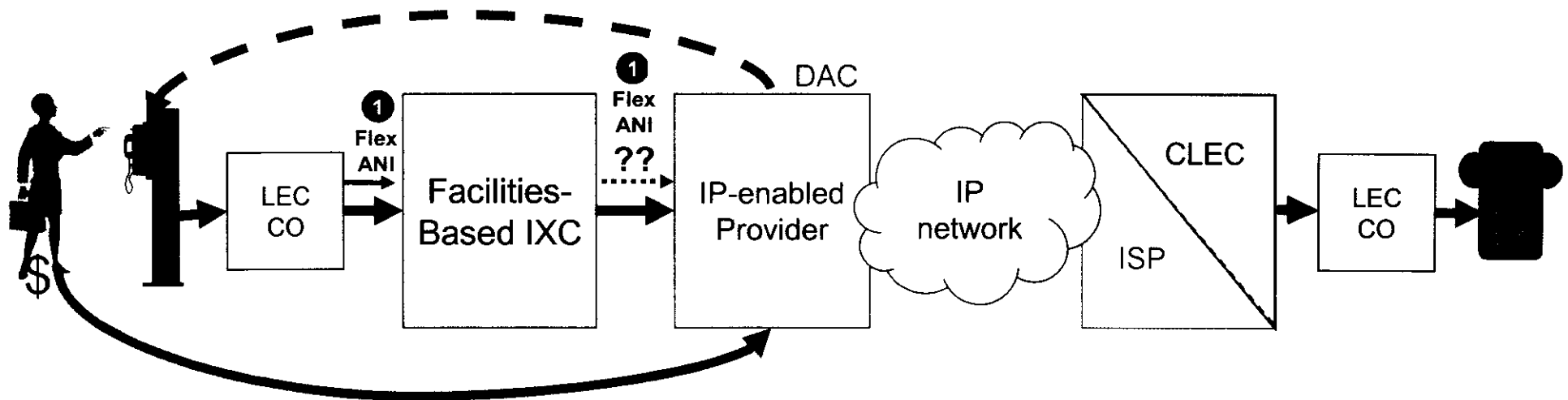


① F-IXC receives and sends Flex ANI; unclear if IP-enabled Providers are able to receive.



IP-Enabled DAC Call: Calling Card or Prepaid Card Over IP-enabled Provider to PSTN

This scenario is similar to the one on page 12. The only difference is that an ISP/CLEC hands the call to the terminating LEC, which should not affect PSPs' right to DAC.



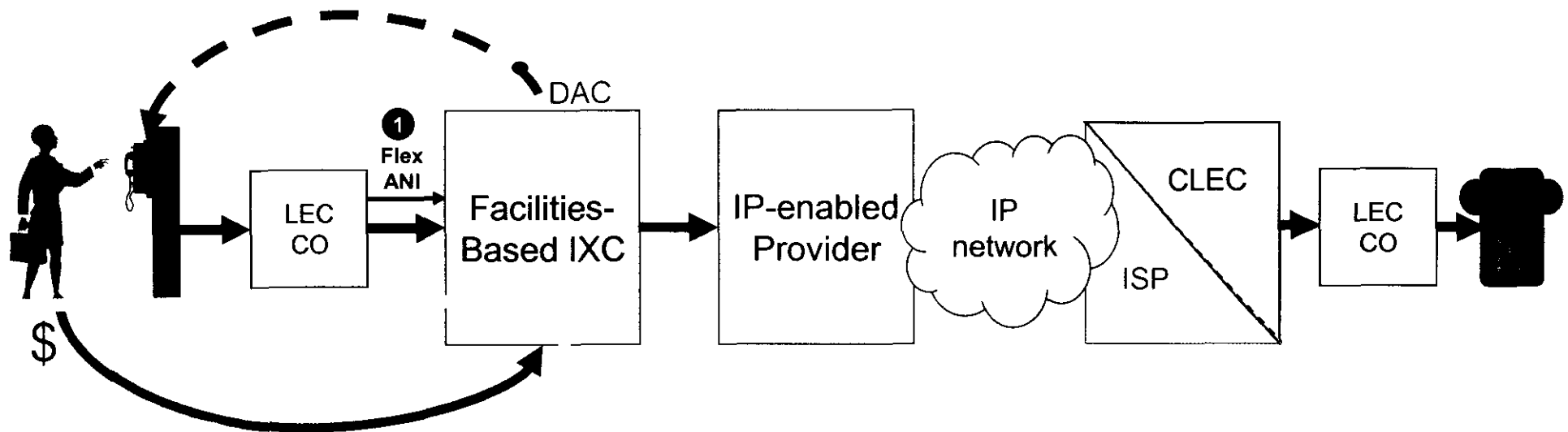
① F-IXC receives and sends Flex ANI. Unclear if IP-enabled Provider receives Flex ANI.

- Money flow
- Call flow
- Information flow



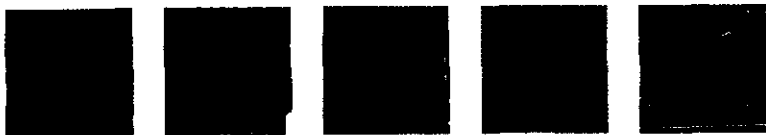
IP-Enabled DAC Call: Calling Card or Prepaid Card Where IP-enabled Provider Provides IP Transport

In this variant, the F-IXC would remain the “Completing Carrier.” Here, unlike the previous slides, the caller is F-IXC’s end user. The IP-enabled Provider provides IP transport to F-IXC.



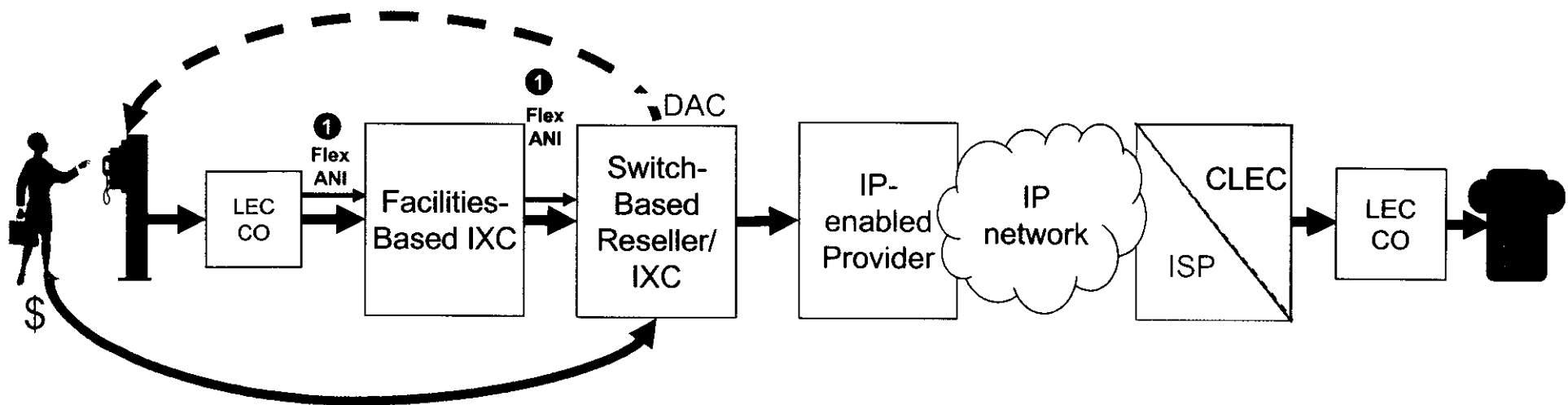
1 F-IXC receives and sends Flex ANI; IP-enabled Provider may or may not be able to receive.

- Money flow
- Call flow
- Information flow



IP-Enabled DAC Call: Calling Card or Prepaid Card, With SBR, and IP Transport

This variant adds a SBR to the call path. The SBR would be the “Completing Carrier.” The caller is the SBR’s end user. As in the previous slide, the IP-enabled Provider provides IP transport, but to the SBR instead of the F-IXC.



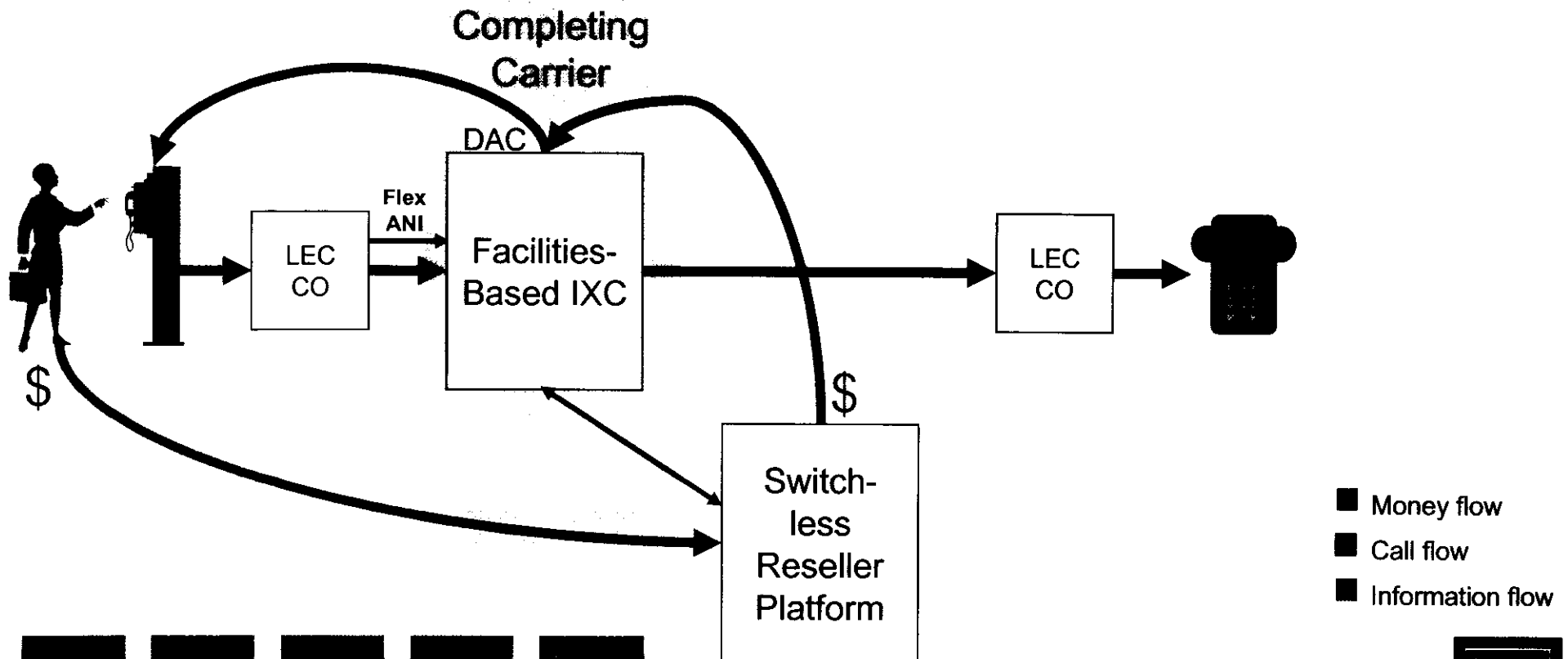
- ① Originating F-IXC and SBR receive and send Flex ANI. IP-enabled Provider may or may not be able to receive.

- Money flow
- Call flow
- Information flow



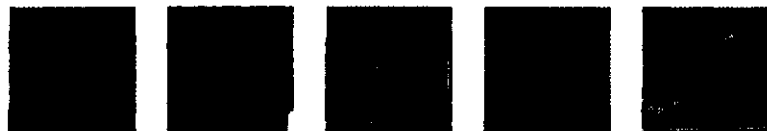
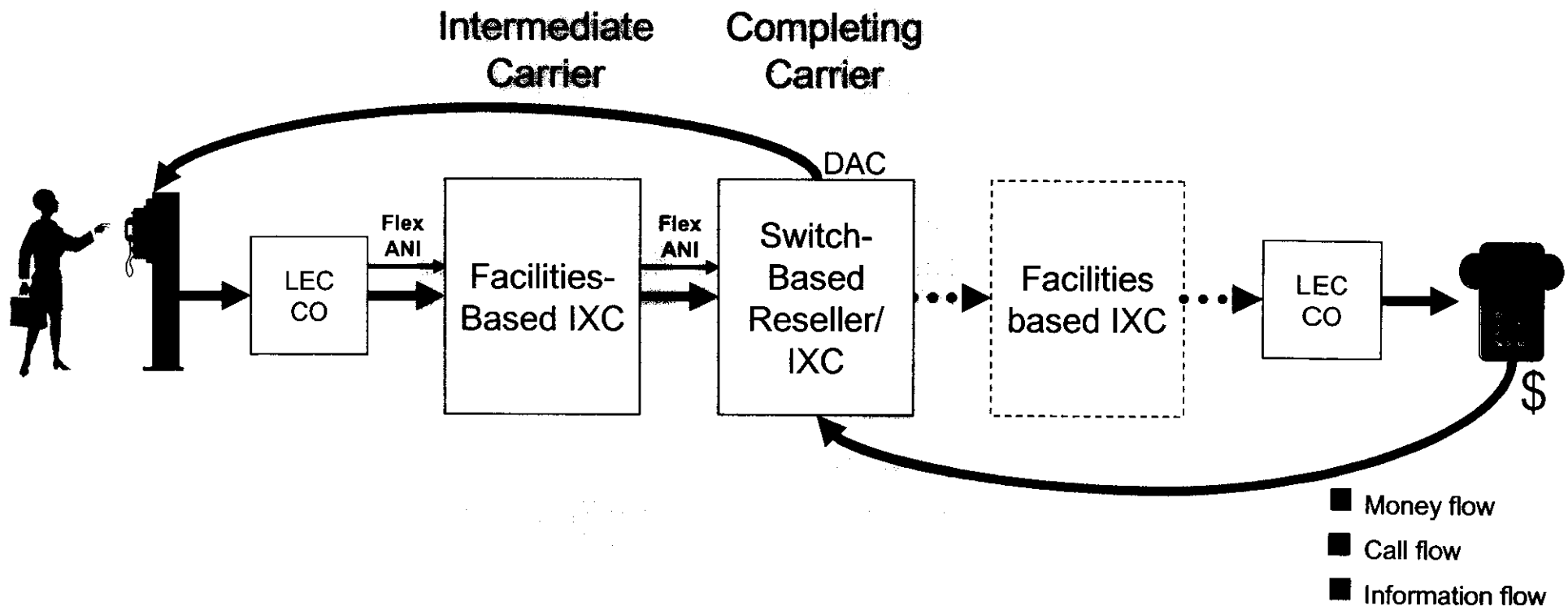
Conventional DAC Call: Calling Card or Prepaid Card to Switchless Reseller

In this variant, the caller is the switchless reseller's end user. Under the current DAC rules, the F-IXC is the "Completing Carrier."



Conventional DAC Call: Subscriber 800 Call Over Switch-Based Reseller/IXC

In this variant, a conventional DAC SBR call is shown as a subscriber 800 call instead of a calling card call.



Applying the DAC Rules to IP-Enabled Providers

- There are two basic approaches to applying the DAC rules to a payphone call that includes IP-enabled communications:
 - Approach #1: The DAC rules do/should apply to IP-enabled providers, and they pay where they occupy a position comparable to, or are, the *Completing Carrier*
 - Approach #2: IP-enabled providers are outside the scope of the DAC rules; only traditional carriers can be the *Completing Carrier*

